

## **REMARKS/ARGUMENTS**

The Examiner is thanked for the final Office Action mailed March 10, 2008 and the courtesies extended during the telephone conference of May 6, 2008 regarding proposed amendments to overcome the rejections. The status of the application is as follows:

- Claims 1-26 are pending.
- Claims 22-26 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter.
- Claims 1, 2, 4-7, 9, 12-16, and 20-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Noehring et al. (US 2002/0188871 A1).
- Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Noehring et al. in view of Kocaman et al. (US 2004/0030513 A1).
- Claims 8, 17 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noehring et al. in view of Nozawa et al. (US 5,235,641).
- Claims 10, 11, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noehring et al. in view of Trost et al. (US 4,627,018).

The rejections are discussed below.

### **The Rejection of Claims 22-26 under 35 U.S.C. 101**

Claims 22-26 stand rejected under 35 U.S.C. 101 as being directed towards non-statutory subject matter. Applicants have amended the subject claims as suggested by the Office, and the claims now recite a computer readable “storage” medium. As such, it is believed that claims 22-26 are directed towards statutory subject matter. Support for this amendment can be found at least at paragraph [0047], which states the medium can be any medium that can store a program and notes several examples of such a medium including RAM, ROM, EPROM and CDROM. Accordingly, this rejection should be withdrawn.

**The Rejections under 35 U.S.C. 102(b) and 35 U.S.C. 103(a)**

Independent **claims 1, 12 and 22** have been amended in accordance with the discussion with the Examiner during the telephone conference. In particular, the subject claims have been amended herein to require that the priority used to retrieve or transfer data be independent of or not depend on an order in which the data is stored in memory. As such, the rejection of claims 1, 12 and 22 should be withdrawn. The remaining claims are allowable at least by virtue of their dependencies to the independent claims.

**Conclusion**

In view of the foregoing, it is submitted that the subject claims distinguish patentably and non-obviously over the prior art of record. An early indication of allowability is earnestly solicited.

Respectfully submitted,

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AMD:cg